

# Judicial Assignments in California

## **Who has the power to assign judges, and under what authority?**

Article VI, section 6 of the California Constitution provides that the Chief Justice shall seek to expedite judicial business and to equalize the work of the judges. The Chief Justice may provide for the assignment of any judge to another court, but only with the judge's consent if the court is of lower jurisdiction. A retired judge who consents may be assigned to any court.

To assist in maintaining the effectiveness and quality of judicial assignments, the Assigned Judges Program is governed by the standards and guidelines adopted by the Chief Justice as revised January 15, 2000. The standards and guidelines establish eligibility requirements and procedures for serving in the Assigned Judges Program. Amendments to rules 205 and 532.5 of the California Rules of Court implement certain provisions of the standards and guidelines, including procedures for periodic review of judges serving on assignment and a formal process for dealing with complaints.

## **For what reasons is judicial assistance provided?**

Judicial assistance is provided in instances of vacancies, illness, disqualification, and calendar congestion, for replacement of new judges while they attend orientation classes, and to allow

judges who sit on the Judicial Council and its advisory committees and task forces to attend meetings of these bodies. Judges who have retired or have been elevated may be assigned to complete matters they began in their previous courts. The extent to which a court is coordinated or has unified or implemented measures to improve the efficient use of available resources may also be taken into consideration.

## **What is the extent of an assigned judge's authority?**

A judge who is eligible for municipal court service may be assigned by the Chief Justice to serve on any court (Cal. Const., art. VI, § 15). An assigned judge has all the powers of the position to which he or she is assigned.

## **Who may request the assistance of an assigned judge?**

The Chief Justice issues assignments at the request of presiding or sole judges or their designees for both trial and appellate courts.

## **How many requests for assistance does the Chief Justice receive?**

On behalf of the Chief Justice, the Administrative Office of the Courts (AOC) receives 350 to 450 requests for assigned judges each month, depending on the time of year.

## **How much assistance do assigned judges provide? How many judges is that equivalent to?**

Over the past five years assigned judges have provided an increasing amount of judicial assistance as follows:

<b>Fiscal Year</b>	<b>Days of Assistance Provided by Assigned Judges</b>	<b>Judicial Position Equivalent</b>
1998–1999	26,125	105
1996–1997	27,107	108
1995–1996	23,781	95
1994–1995	25,809	104

### **How are assignments made?**

Presiding or sole judges or their designees submit requests for the assistance of an assigned judge to the AOC's Judicial Assignments staff, which acts on behalf of the Chief Justice. The judges must explain why the assistance is needed, when, and for how long a period.

Staff consult the lists of judges serving in the Assigned Judges Program and judges from courts with reciprocal agreements (see "What is a reciprocal assignment?") and consider a judge's availability, calendar interest, distance willing to travel, and length of time willing to serve before making a recommendation for assignment to the Chief Justice.

### **What criteria are used in determining which courts receive the assistance of an assigned judge?**

Pursuant to criteria established by the Chief Justice, the Judicial Assignments staff, in making their recommendation for assignment, consult the list of available judges and give priority to courts in danger of dismissing criminal cases, followed by courts with the most vacancies and illnesses. Small courts have priority over larger courts because the latter have more options for allocating judicial resources. Every effort is made to fill all requests, although requests often exceed the number of judges available for assignment.

### **How long do assignments last?**

Judges can be assigned for any length of time, depending on a court's need and a judge's availability. Assignments are generally granted up to a sixty day period.

### **Can assignments be renewed?**

Yes, the Chief Justice can renew assignments if requested by presiding or sole judges or their designees.

### **What is a blanket assignment?**

Blanket assignments are issued by the Chief Justice to provide courts with more flexibility at the local level by permitting judges to serve in another court within the same county upon agreement of the sole or presiding judges of the courts involved. These assignments are issued annually and updated periodically to reflect changes on the bench.

However, when a disqualification of a judge is involved, a blanket assignment may not be utilized without specific prior approval of the Judicial Assignments staff.

### **What is a reciprocal assignment?**

Reciprocal assignments are issued by the Chief Justice to give courts local flexibility by permitting judges to serve in a court in another county upon agreement of the sole or presiding judges of the courts involved. As with blanket assignments, these assignments are issued annually and updated periodically to reflect changes on the bench.

The caveat regarding situations involving disqualification also applies to the use of reciprocal assignments.

**What occurs when a judge is assigned to hear a challenge for cause of another judge?**

After a party files a challenge “for cause” (Code Civ. Proc., § 170.1 et seq.) asserting reasons that a particular judge cannot be impartial and should be disqualified from hearing a matter, the judge has the option of either consenting to the disqualification or filing a written statement in opposition to the challenge, stating that he or she is not biased. A presiding or sole judge or the designee of the court involved then requests the assignment of a neutral judge to rule on the challenge.

Such situations are given priority in the recommendations made by the Judicial Assignments staff. When an available judge has been identified, the Chief Justice makes the assignment, and the court is notified. The court forwards the file, including the challenge, the judge’s reply, and any other pertinent information, to the assigned judge and notifies the parties.

The assigned judge can schedule a hearing if he

or she decides more information is needed, but the written challenge and statement of the party, and the challenged judge’s answer, are usually sufficient. The assigned judge makes a decision as to the merits of the challenge, and the decision is then available in the court where the judge was challenged.

**Is the AOC informed of peremptory challenges to judges?**

A party may make a peremptory challenge to disqualify a judge from a case without stating a reason for doing so. The Judicial Assignments staff are informed of peremptory challenges only when no other judge of the court is qualified to act in a matter and an assigned judge is requested to hear the case (Code Civ. Proc., § 170.6). Otherwise, Assignments staff do not receive information about peremptory challenges.

**How large is the pool of retired judges available for assignment?**

Approximately 390 retired judges have indicated an interest in serving on assignment.

**What is the current compensation for assigned judges?**

In addition to his or her retirement pension, a retired judge sitting on assignment is compensated at 92 percent of the salary of a judge of the court to which he or she is assigned, based on a 250-day year (Gov. Code, § 68543.5(a)). A retired judge sitting in a coordinated (pay parity) court or unified court receives 92 percent of a superior court judge’s salary. A retired judge receives approximately \$433.92 for each day of service in a superior court and approximately \$396.26 for each day of service in a municipal court. The 8 percent that the retired judge does not receive is paid into the Judges’ Retirement Fund.

A retired judge sitting on assignment in the appellate courts receives the difference between the individual judge's retirement allowance and 92 percent of the compensation of an active justice in the assigned court (Gov. Code, § 68543.5(b)). The Administrative Office of the Courts will reimburse the Judges' Retirement Fund or Judges' Retirement System II for retirement compensation received by assigned judges for any day served on assignment and will remit 8 percent retirement contribution to the appropriate retirement fund.

For entitlement to differential pay under Government code section 68540, a municipal court judge is deemed assigned to the superior court only if the major portion of the judge's workday is devoted to superior court matters, or he or she is assigned to a court that has been approved for pay parity under Government Code section 68547.

An active municipal or superior court judge sitting by assignment to a Court of Appeal is paid the difference between his or her current pay and that of an appellate court justice. For entitlement to differential pay under Government Code section 68540.7, a superior or municipal court judge shall be deemed assigned to the Court of Appeal only if the major portion of the judge's workday is devoted to appellate court matters.

### **Who pays the cost of retired judges serving on assignment?**

The state pays the entire cost of judges who serve on assignment.

The 27-member Judicial Council is the policymaking body of the California courts, the largest and busiest court system in the nation. Under the leadership of the Chief Justice and in accordance with the California Constitution, the council is responsible for ensuring the consistent, independent, impartial, and accessible administration of justice. The Administrative Office of the Courts serves as the staff agency to the council.